

Substance Abuse Workgroup



1st Statewide Behavioral Health Integration Project Meeting

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Substance Abuse Treatment Providers Should Fully Participate in Illinois HIE

- SAMHSA Strategic Initiative on HIT: Ensuring that the behavioral health system, including States, community providers, and peer and prevention specialists, fully participates with the general health care delivery system in the adoption of health information technology (HIT) and interoperable electronic health records (EHRs).

Substance Abuse Treatment Providers Should Fully Participate in Illinois HIE

- Knowledge gaps exist among patients and providers in the IL behavioral health community about the use of EHRs and the benefits of HIE.
- Legal barriers and confusion about privacy and exchange of sensitive patient data exist between IL behavioral and physical health providers.
- Our IL Community-Based Addiction Treatment System of Care is critical to our Health Care System.
- We need to eliminate roadblocks!

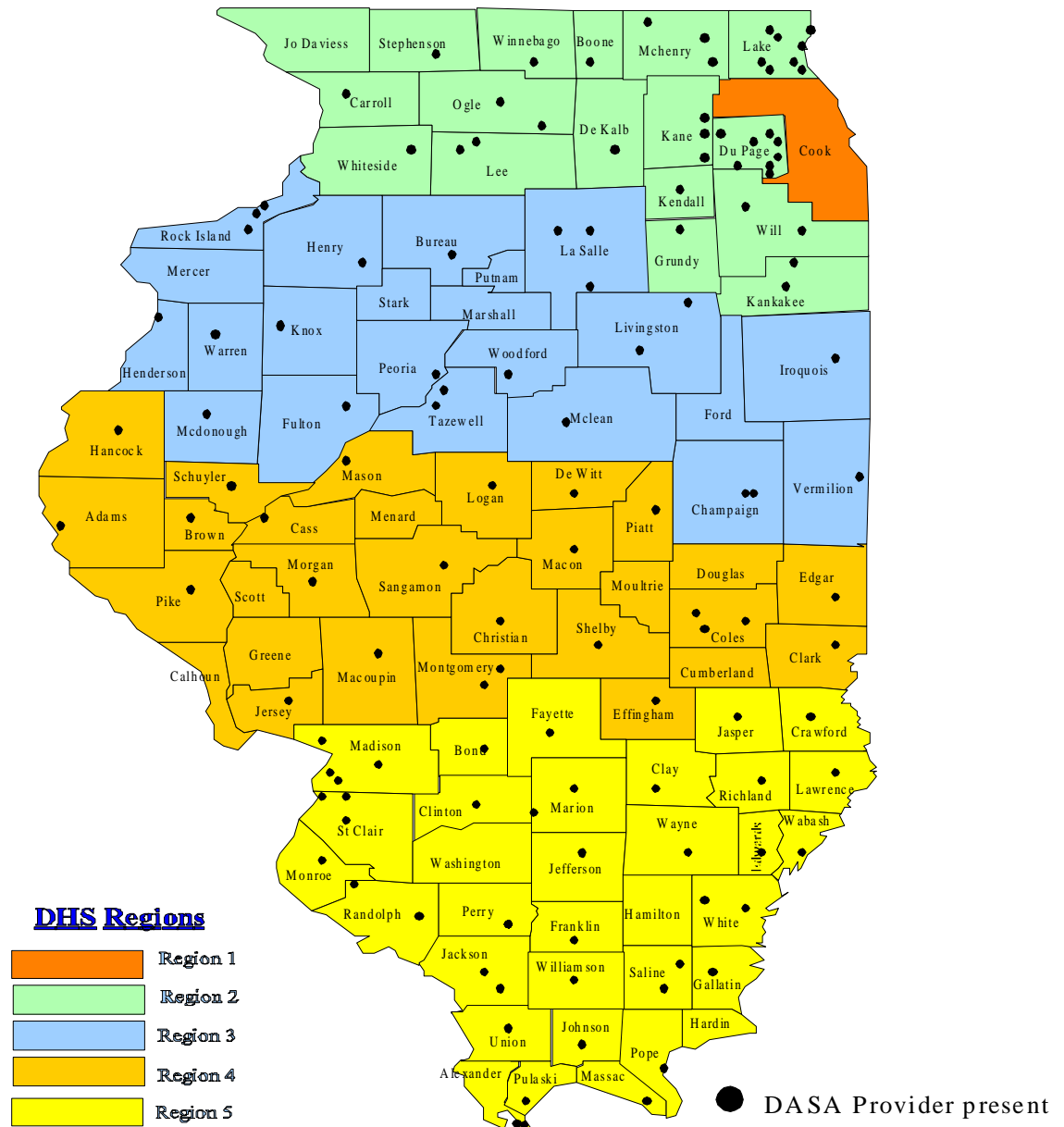
Substance Abuse Treatment is Critical to Illinois' Health Care System

- Reduces emergency room utilization
- Provides specialty care for detoxification
- Contributes to better health outcomes
- Enhances economic productivity, reduces public safety costs and increases the effective use of the overall health care system
- Results in financial savings through community based care

DHS DASA Service Provider Locations Non-Cook County SFY 2011

Illinois Substance Abuse System

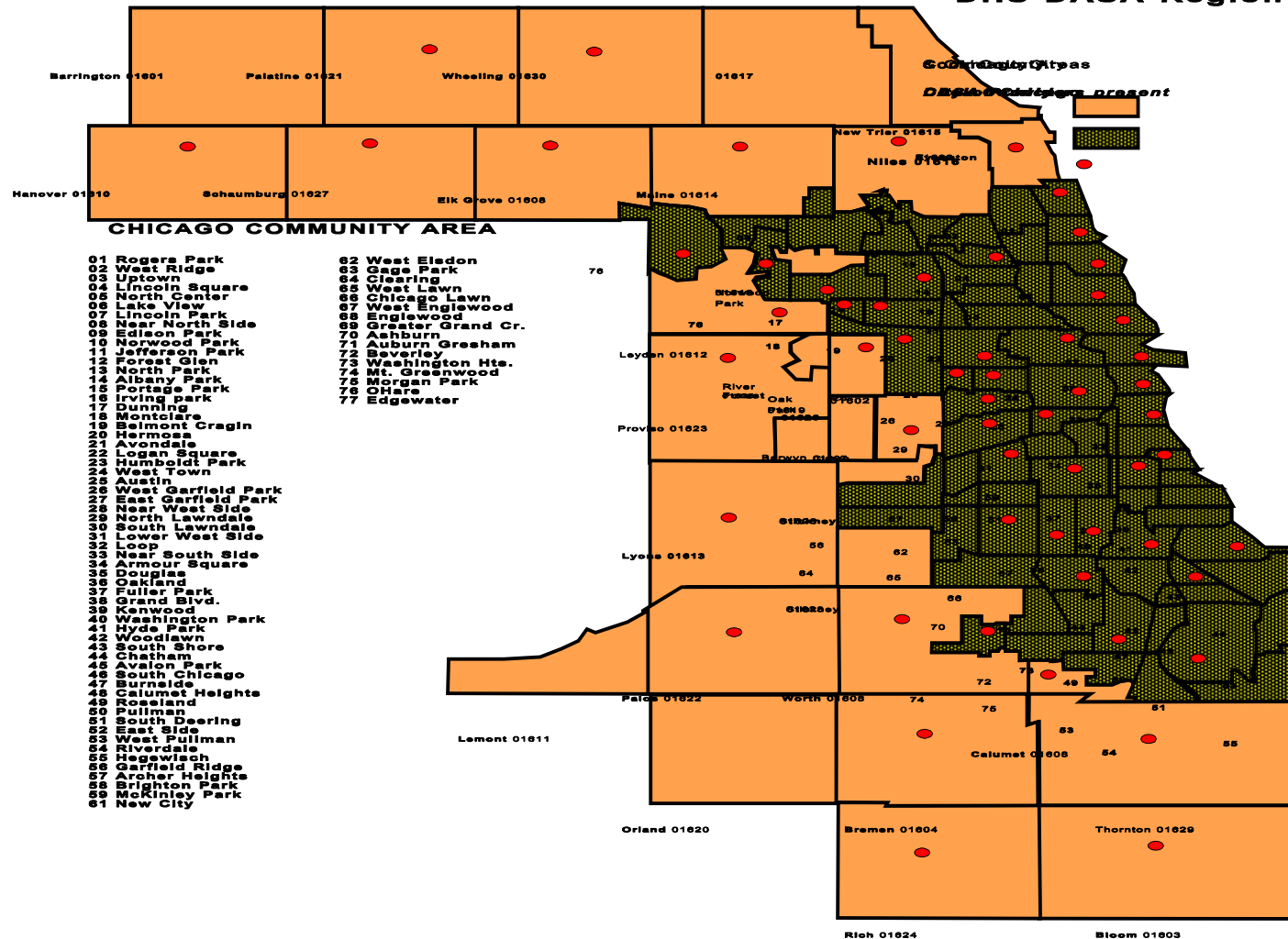
- 893 licenses for treatment and DUI
- 494 licenses are held by 147 funded corporations
- 399 licenses are held by 283 unfunded corporations
- Less than 12 DHS Licenses in Hospitals



DHS DASA Cook County Service Providers

DHS DASA Service Providers Chicago/Cook County by Community Areas

DHS DASA Region 1



IL Confidentiality Protections



- Confidentiality specific to substance abuse treatment, diagnosis and referral
- Enacted in early 1970s
- Federal laws: 42 U.S.C. 290dd-2 Federal regs: 42 C.F.R. Part 2
- Illinois statute follows federal laws

Why Stringent Protections for Addiction Treatment Information?

- Premised on negative stigma historically associated with substance abuse
- Congress assumed individuals would be more motivated to seek treatment if they were assured their treatment remained confidential



Ways to Share Substance Abuse Information

- Written Authorization by Patient
- Communications within a Program
- Qualified Service Organization (QSO) agreement
- Medical Emergency
- Research purposes
- Court order
- Child abuse exemption
- Crime on program premises
- Audit & evaluation
- Sharing with VA and Armed Forces
- Coroner and vital statistics
- Non-patient identifying

Substance Abuse Workgroup Recommendations

- Revise IL laws to be consistent with HIPAA where possible and not in conflict with Federal substance abuse confidentiality law (42 CFR Part 2)
- Work within parameters established by SAMHSA and ONC because of Federal law
- Broadly construe medical emergency (“break the glass” exception) under state statute
- Develop a state standardized consent form that meets requirements of Federal substance abuse confidentiality law and other IL laws
- Modify IL MHDDCA consent provisions to create greater flexibility consistent with SAMHSA FAQs

Recommendation:
Institute Safeguards to
Reduce Stigma and Discrimination

Preserving Patient Trust is Paramount!

- Neither federal nor state law expressly include non-discrimination prohibitions or protections
- Additional patient protections addressing penalties for discrimination and improper use and disclosure of sensitive data should be added to the Illinois Alcoholism and Other Drug Dependency Act

Recommendation: Strengthen Penalties and Remedies

- Legal remedies for violations of 42 C.F.R. Part 2 are limited to a \$500 criminal penalty, with additional violations allowing for increases up to \$5,000
- Such amounts do not serve as a deterrent to improper use or resulting discrimination
- Financial penalties and other remedies for improper use or disclosure of sensitive information should be strengthened in our State laws

Recommendation: Preserve Stringent Court Orders

- Addiction treatment information is of potential interest to law enforcement, child welfare, employers and attorneys in civil proceedings.
- Therefore, it is essential that any proposed changes to current law maintain strong confidentiality protections.
- Extensive due process provisions for court orders for substance abuse treatment information should be preserved consistent with 42 CFR Part 2.

Recommendation:

Limit Use in Criminal and Civil Investigations

- Retain special due process protections of court orders required under 42 C.F.R. 2.61-2.66 and 20 ILCS 301/305(bb)
- Prohibit use of treatment information in criminal and civil proceedings by the government without a specific court order and include exclusion of evidence as a remedy for illegally obtaining or wrongfully using confidential treatment information

Recommendation: Fund Behavioral Health EHRs!

- Many small behavioral health providers in Illinois do not have the resources to purchase and implement EHR systems
- Behavioral health facilities are not eligible to participate in the ARRA meaningful use incentive payment program



Recommendation:

Expand HIT Incentives to Behavioral Health

- SB539 (Sen. Whitehouse D-RI) re-introduced a bill to expand federal health information technology payments to mental health professionals, psychiatric hospitals, mental health treatment facilities and substance abuse treatment facilities.
- Illinois should support this legislation.
- Illinois should expand Medicaid incentives to substance abuse providers consistent with our detailed Committee recommendations.

